

Ingham County Register of Deeds Curtis Hertel Jr. Testimony to the Legislature on Foreclosure Fraud

Thank you, Mr. Chairman, for having this hearing on this important issue.

A history of land records is an essential part of any Democratic or Capitalist country. It is for that reason that almost every state has an elected official responsible for the keeping of land records. It is also why, in Cuba and the former USSR, when the communists took over, they destroyed all property records. The right to the ownership of real property is an important part of our American way of life.

In Michigan, under current law, that right is being taken from citizens with little or no due process. As you have heard from Clerk Register Bullard, a fraud has been committed on citizens of this State, and in Register of Deeds offices across Michigan.

We are not saying that citizens bear no responsibility here. A mortgage is a contract between a citizen and a bank. If the citizen is not compliant with their end of the contract, the bank has the right to foreclose. However, the banks have to play by the rules as well. Docx is just the first and most obvious case of this fraud. There are many reports and investigations that suggest robo-signing was an epidemic in the foreclosure industry. Unfortunately, we have almost zero checks and balances under current law. No one at the Sheriff's office where the sale is held has the authority to review the chain of ownership of the mortgage. No one in the Register of Deeds office has the authority to review the recording of the sheriff deed to look for suspected fraud.

I have spoken to many legislators on both sides of the aisle that are outraged by this fraud. I therefore would like to suggest some legislative changes that would help assure that no one again loses their home because of fraudulent paper work.

In a perfect world I would be asking to eliminate foreclosure by advertisement all together. Full judicial foreclosure would assure that all citizens' foreclosure documents would be reviewed by someone with the legal authority to stop the foreclosure if there was fraud in the process.


Being a realist I fully understand that there could be obstacles to this change. So I, and Register of Deeds from across the state, have brain-stormed and come up with some interim steps the legislature can take if Judicial foreclosure is not a realistic option.

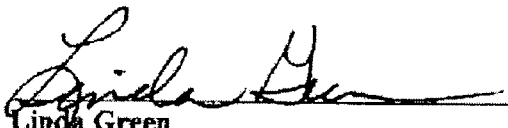
- 1) Require all powers of attorney be recorded for their use in real property actions. This should be expanded to include corporate entities, limited liability entities and partnerships.
- 2) Require a written chain of title be recorded as a stand alone document for every Foreclosure by advertisement.
- 3) Notices of foreclosure need to be changed by requiring the names of all parties on assignments be included along with dates of execution and recording of the assignments.
- 4) A method for home owners to have a swift review of the process on their behalf, if they believe fraud has been committed, or foreclosure requirements have not been met. To this end, there should be created a third party review (similar to the Michigan tax tribunal). If it is determined any requirements for foreclosure by advertisement were not met, or where fraud was a possibility, judicial foreclosure would be required.

Again, thank you Mr. Chairman and committee members for having me today. I and the Michigan Association of Register of Deeds look forward to working with you on this matter.

*Examples from Ingham County Register of Deeds records of varying
signatures*

Linda Green:



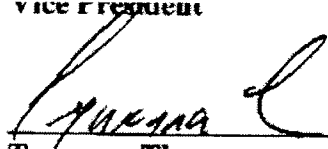
Linda Green
Vice President

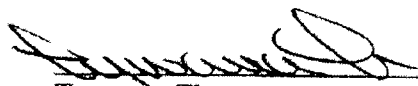
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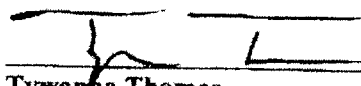
Linda Green
Vice President & Asst Secretary

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Tywanna Thomas
Asst. Vice President

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